



LEGISLATIVE FINANCE COMMITTEE

59TH Montana Legislature

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RICK RIPLEY
JOHN SINRUD

MINUTES

October 12 & 13, 2006
Room 102, State Capitol
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Fiscal Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document**

ROLL CALL

Sen. Keith Bales
Sen. John Cobb
Sen. Mike Cooney
Sen. Rick Laible
Sen. Don Ryan
Sen. Carol Williams
Rep. Gary Branae
Rep. Rosalie Buzzas
Rep. Tim Callahan
Rep. Ray Hawk
Rep. Rick Ripley
Rep. John Sinrud
Clayton Schenck, Legislative Fiscal Analyst
Diane McDuffie, Committee Secretary

ATTACHMENTS

Visitor's list #1
Proxy for Senator Ryan
Roll Call

CALL TO ORDER (Tape 1A-001)

Senator John Cobb, Chairman, called the 198th meeting of the Legislative Finance Committee (LFC) to order at 8:00 a.m. on Thursday, October 12, 2006. The meeting was held in Hearing Room 102 of the State Capitol, Helena, Montana.

1. Approval of Minutes for June 8 & 9, 2006 (Tape 1A-009)

MOTON: Senator Cobb moved the minutes of the June 8 & 9, 2006 meeting be approved as submitted. **VOTE:** The motion carried unanimously.

Approval of Minutes for July 21, 2006 Conference Call (Tape 1A-014)

Rep. Ripley noted that Representatives Callahan and Ripley should be listed as absent.

MOTON: Rep. Ripley moved the minutes of the July 21, 2006 conference call be approved with the correction noted above. **VOTE:** The motion carried unanimously

Legislative Fiscal Analyst Announcements

Clayton Schenck, LFA, introduced Pam Joehler, recently hired to fill the vacant fiscal analyst position in the Legislative Fiscal Division (LFD).

2. 2007 Biennium Budget Spending “Pressure Points” (Tape 1A-045)

Taryn Purdy, Principal Analyst, LFD presented a report on the 2007 Biennium Budget Spending “Pressure Points” (Exhibit 1) The purpose of the report is to alert the LFC of potential cost overruns and areas of concern.

The agencies identified in the report are: Corrections, Public Health and Human Services; Office of Public Defender, Judiciary, and fire costs. Currently staff estimates supplemental appropriations of about \$69.8 million general fund.

3. Fire Cost Report (Tape 3A-089)

Barbara Smith, Fiscal Analyst II, LFD presented a report on FY 2007 Fire Suppression Costs. (Exhibits 2 & 2A) Ms. Smith reported total estimated fire costs to date are \$59.873 million of which, after cost-settlements and reimbursements, \$23.6 million will be the responsibility of the state. The key concern for the committee is to achieve assurance from DRNC that the agency

can continue to meet cash obligations and operate the department until the 2007 Legislature convenes. Options to avoid this cash crunch situation are discussed in a second report to the LFC on “Fire Funding Options”.

4. General Fund Status: FY 2006 Actual/2007 Biennium Projected (Tape 1A-166)

Terry Johnson, Principal Analyst, LFD provided a written report on General Fund Status: Fiscal 2006 Actual/2007 Biennium Projected and a power point presentation on the General Fund Status Fiscal Year 2006. (Exhibits 3 & 3A) The purpose of this report is to provide the committee with preliminary fiscal 2006 ending fund balance data for the general fund account. Mr. Johnson’s report provides a comparison between budgeted data as developed by the 59th Legislature and what actually occurred in fiscal 2006. It also provides aggregate information on revenue estimates and collections, disbursements and reversions, and an updated fund balance statement for the 2007 biennium.

Mr. Johnson reported that the projected ending fund balance for the 2007 biennium is currently estimated at \$509.0 million. This balance incorporates actual revenue and disbursement data for fiscal 2006 and fiscal 2007 disbursement estimates as budgeted by the 59th regular and December 2005 Special Session legislatures. In addition, this balance includes an estimate of additional fiscal 2007 revenue above the HJ 1 special session revenue estimates. The balance also incorporates potential emergency/supplemental appropriations of \$43.0 million for wildfire costs, \$25.0 million for Department of Corrections, \$9.3 million for Public Health and Human Services, and \$5.8 million for Judiciary/Public Defender. Mr. Johnson responded to questions from LFC members.

Fire Cost Report (Tape 1B-133)

Bob Harrington, Administrator, Forestry Division, DNRC provided a power point presentation on Montana Wildfires 2006. (Exhibit 4) Mr. Harrington reported that coming into the fire season we had a fairly wet spring in the western part of the state. However, the eastern part of the state did not. The fire season started around July 4th, which was a few weeks early. The state has 6 type 2 teams that were deployed constantly beginning in July.

There was a lot of conflict and frustration over the fire behavior and just when they thought the fire season was over they ended up with the largest fire of all (Derby), and not long after that the Jungle fire, which severely impacted many land owners. Total wildfires were 2,230 which burned 877,709 acres. DNRC was responsible for 552 wildfires that burned 342,000 acres. Of the 552 fires, 34 grew into large fires greater than 100 acres. Initial attack success rate is about 94 percent; the department's target is 95 percent. Competition for fireline resources nationally was very acute due to other states having a worse fire season. There were many threats to structures, powerlines, and agriculture. Wildland urban interface is becoming a component in the majority of the large fires. Mr. Harrington responded to questions LFC members.

5. Montana Economic Outlook (Tape 1A-170)

Dr. Paul Polzin, Director, Bureau of Business and Economic Research, UofM offered a slide presentation on the Natural Resource Boom in Montana. (Exhibit 5) Mr. Polzin explained that the preliminary 2005 data shows 4.0 percent inflation adjusted growth in Montana economy, only slightly less than the 4.7 percent in 2004 and 4.3 percent in 2003. Nonresident travel, wood products, agriculture, mining and federal government provides 71 percent of Montana's economic base. Strong worldwide demand growth has put upward pressure on all commodity prices and provides incentives for increased production. The oil boom continues in eastern Montana, copper prices are at an all-time high, and mines in Silver Bow and Lincoln counties have reopened and producing at capacity. Rapid economic growth in China, India, and other developing nations has been one of the important economic engines fueling world economy. Dr. Polzin responded to questions from LFC members.

6. "Big Picture Report" (Tape 2B-088)

Clayton Schenck, LFD Director, presented the LFD General Fund Preliminary Budget Outlook for 2009 Biennium, more commonly known as the "Big Picture Report". (Exhibit 6) The purpose of this report is to provide the LFC with a preliminary projection of the general fund balance for the 2009 biennium at present law levels of revenue and expenditure. He explained the projection estimates, the availability of funding for maintenance of existing services as well as for new and expanded programs.

In conclusion, Mr. Schenck pointed out that the 60th Legislature faces a much brighter budget picture than the large deficit facing the 58th Legislature in the 2003 session, and even the more

positive fund balance in the 2005 session. The brighter picture is primarily due to strong growth in individual and corporate income tax and oil and gas tax revenues during the previous 2004 through 2006. Mr. Schenck provided a list of Governor's Budget Initiatives 2009 Publicly Acknowledged by the Governor's Office (millions). (Exhibit 7) Mr. Schenck and Mr. Johnson responded to questions from LFC members.

Dave Ewer, Budget Director, Office of Budget and Program Planning (OBPP) responded on behalf of the executive, stating that the long-term growth trend for general fund revenue is about 4.6 percent. Within this growth rate are very high revenue growth years and very low revenue growth years. He provided a handout on General Fund Revenue Volatility. (Exhibit 8) The budget office is taking a very cautionary stand at this point and probably will not budget on-going expenses at the \$350 million level.

7. Highways State Special Revenue Account Update (Tape 3A-454)

Greg DeWitt, Senior Fiscal Analyst, LFD presented a report on Highways State Special Revenue Account Update. (Exhibit 9) This report presents the latest working capital analysis for the account as of the end of FY 2006 and explains: 1) the difference between this analysis and the "Legislative Fiscal Report 2007 Biennium"; 2) the assumptions used in the analysis; 3) the analysis results; 4) the impacts on Department of Transportation funding from high oil prices and construction material cost increases and supply shortages; and 4) legislative options for strengthening the account.

Mr. DeWitt explained that current projections of HSSRA indicate that the adequacy of the HSSRA working capital balance is questionable for providing funding through the 2007 biennium without relying on agency reversions. Projections indicate that with current revenue streams and present law spending, the account may not be able to sustain spending in the 2009 biennium. If the projections of this analysis hold true, the legislature may soon be faced with choices for restoring a structural balance between revenues and expenditures of the HSSRA.

Jim Lynch, Director, Department of Transportation said they have always managed HSSRA to be solvent. They are currently managing that account to be solvent through 2011 and are comfortable they will continue through 2013. Even with high gas prices they have not seen a

drop in estimated revenue for gas and diesel. There has been a slight decrease in gas but there has been an increase in diesel. Prices to the contractor that already had contracts have not been raised but future projects may be 20 to 22 percent higher. There were projects that got bumped because of the increased cost of construction products. Mr. Lynch responded to questions from LFC members.

Interim Studies

8. Status Reports on Other Interim study Committees (Tape 3B-096)

Pension Plans Unfunded Liability: Update on SAVA Work/Proposals

Jon Moe, Fiscal Specialist, LFD explained that the 2006 actuarial valuation has been completed for the four retirement systems. Each valuation shows significant improvements in the conditions of these plans. Mr. Moe provided two handouts on the Pension Plan Unfunded Liability. (Exhibits 10 & 10A) Exhibit 10 is a chart showing a comparison of 2006 Actuarial valuation versus 2005 actuarial valuation. Exhibit 10A is a list of pension bills proposed to State Administration Veterans Affairs Interim Committee. The FY 2005 numbers are the same as reported a year ago. The FY 2006 numbers are from the recently received report of the TRS valuation and only preliminary numbers were available on the other three plans. For each plan the unfunded liability has decreased. He provided a brief explanation of LC0285, LC0288 and LC0290. Mr. Moe responded to questions from LFC members.

Senator Laible suggested an actuary pension fund expert explain the pension unfunded liability at the next meeting.

9. K-12 Facility Conditions and Needs Assessment/Energy Audit (Tape 3B-603)

Cathy Duncan, Senior Fiscal Analyst, LFD provided a report on K-12 Facility condition and Needs Assessment and Energy Audit. (Exhibit 11) During the 2005 Special Session, the legislature passed HB 1, mandating that the LFC participate in the design of a K-12 condition and needs assessment and energy audit. This report outlines the responsibility of the LFC, and updates the committee on the progress already made. The LFC should be aware that adequate funding was not supplied for a comprehensive assessment of both the condition and the energy efficiency needs of the K-12 buildings. Given the funds provided, the LFC will need to

determine the desired scope of each assessment. The input of the LFC is necessary at this time to enable A&E to fully determine the scope of the analysis and hire contractors accordingly.

Tom O'Connell, Administrator, A&E explained that his department has spent the past six months working to find out what kind of a base is out there with schools. He respectfully asked the chairman to appoint a group from this committee to work with to design the system.

Joe Triem provided a K-12 Facility Condition and Needs Assessment and Energy Audit status report. (Exhibit 12) The project team for the development and implementation of Phase 1 included representatives from DOA/A&E, OPI, DEQ, Bozeman Public Schools, and DLR Group – the phase 1 consultant. The two main objectives of Phase 1 were to: 1) develop background data adequate for development of the Phase 2 scope and sufficient for Phase 2 respondents to clearly understand the magnitude and distribution of the State's K-12 Public School facilities; and 2) provide early information related to buildings and energy usage for use in initial benchmarking. Also included in the report is an example of a completed survey form, a preliminary summary of the survey results, and a project schedule.

Senator Ryan was appointed to represent the committee.

10. LFC Committee Bill Drafts: (Tape 4A-190)

Resource Indemnity Trust Statute Revisions as proposed by RIT Subcommittee

Barbara Smith, LFD explained LC0148 (Exhibit 13) is a bill revising legislative reporting requirements related to the future fisheries improvement program; requiring the department of Fish, Wildlife, and Parks to submit a detailed program report to certain legislative committees.

Ms. Smith provided a summary of LC0147 – Revise Resource Indemnity Trust Funding Laws. (Exhibit 14) She explained that the proposed legislation makes five major changes and addresses cleanup issues. The five major areas are:

- Re-design of the Renewable Resource and Reclamation & Development Funds
- Transfer of the balance of the Natural Resources Scholarship Fund
- Revision of the Resource Indemnity Ground Water Assessment (RIGWA) tax allocation
- Elimination of statutory appropriations
- Elimination of the cap on the Groundwater Assessment Fund

She provided a brief explanation of each of the five major areas and pointed out an error on page 22, (2) (c) (iii) should be struck.

Public Comment

Mick Robinson, Associate Commissioner for Fiscal Affairs, Office of the Commissioner of Higher Education expressed concern regarding funding for the MSU-Northern program. The positions funded by RIT dollars are very important for MSU-Northern.

Ray Beck, Administrator, Conservation and Resources Development Division, DNRC expressed appreciation to the subcommittee for their efforts and offered assistance during session, if needed.

MOTION: **Representative Ripley** moved to adopt LC0147 as a committee bill with the correction noted above, and LC0148. **VOTE:** Motion passed unanimously of those present. Sponsor of the bill will be decided at the November meeting.

LRBP Cash Program Funding Statute Revisions as proposed by LRBP Subcommittee

Cathy Duncan, LFD provided a report on the LRBP Cash Program Funding Bill Drafts (Exhibit 15) and a power point presentation on LRBP Funding Proposals. (Exhibit 15A) Ms. Duncan explained that the LRBP Subcommittee recommended two proposals: 1) LRBP Major Maintenance Rental Surcharge – LC018; and 2) Deferred Maintenance Trust – LC0185 and LC0186. Ms. Duncan explained that LC0184 is a rental surcharge to address ongoing LRBP program costs. The bill draft includes language that would implement the rental surcharge in the 2011 biennium. LC0184 establishes the LRBP as an internal state service and creates an internal service fund for operations and eliminates all the current funding streams flowing into the LRBP.

LC0185 creates an expendable trust, defines major capital project, requires a 1 percent appropriation to be deposited in the trust from major capital and major maintenance projects funded by cash or donations, and designates that the 1 percent deposit must be made prior to the completion of the project.

LC0186 contains the constitutional initiative that will make the long-range building deferred maintenance trust a constitutional trust which would go before the voters in the November 2008 general election.

Senator Cooney explained the concept behind the constitutional trust was to prevent the money from being used for other purposes.

MOTION: **Senator Cooney** moved to adopt LC0184. **VOTE:** Motion passed unanimously of those present. Sponsor of the bill will be decided at the November meeting.

Budget Stabilization Account (Tape 4B-014)

Jon Moe, LFD presented the Budget Stabilization Account Legislative Proposal (Exhibit 16) which include the components of a rainy day fund proposal, potential timeline, and LC0562 (Exhibit 16A). Mr. Moe explained that if enacted, the account would be capped at 9 percent of appropriations and transfers from the general fund for the previous biennium, but the mechanism for transferring funds to the new account from excess fund balance of the general fund would not begin until after July 1, 2009. Spending from the fund by the Governor could occur when a revenue shortfall causes the projected fund balance to drop below 1 percent. Any other spending would have to be appropriated by the legislature.

MOTION: Senator Laible moved to draft a committee bill to establish a budget stabilization account. **VOTE:** Motion passed.

Community College Funding Formula Revision

Alan Peura, Fiscal Analyst, LFD presented a report on Community College Funding Study (Exhibit 17), LC0179 (Exhibit 17A), and a spreadsheet showing the Community College Budget Projection Under New Formula 2009 Biennium. (Exhibit 17B) Mr. Peura explained that this proposal would revise the statutory funding that drives the biennial general fund appropriation for Montana's three community colleges. The bill would amend statute in order to rebase the cost of education factor in the formula and add a fixed/variable cost calculation to the formula.

Public Comment

Jane Karas, President, Flathead Valley Community College, Jim Cargill, President, Dawson Community College, and Stefani Hicswa, President, Miles Community College, testified in support of this bill and expressed appreciation to the work group.

MOTION: **Senator Williams** moved to adopt as a committee bill. **VOTE:** Motion passed. Senator Williams will be the sponsor.

Six Mill Levy as requested by Education and Local Govt. (ELG) Committee

Alan Peura, LFD presented LC0345 and a spreadsheet illustrating the Six Mill Levy historical background. (Exhibits 18 and 18A) Mr. Peura explained that the Education and Local Govt. (ELG) Committee requested this bill be presented to the LFC for information purposes only. The bill draft renews the six mill tax levy for another ten years subject to voter approval with one minor change.

LFC Draft Legislation to Clarify Emergency Authority Statutes Regarding “Price of Energy

Greg Petesch, Code Commissioner, LSD presented LC0066. (Exhibit 19) This bill revises and clarifies the Governor’s energy emergency authority related to a price of energy; and amending sections 10-3-312, and 90-4-302, MCA. Mr. Petesch discussed the following changes:

- clarification that an energy emergency accesses the \$16 million statutory appropriation
- include the price of energy to reflect that a price of energy can be an emergency because it imposes a threat to the health or safety of vulnerable segments of the population
- strike the price of energy from the definition of energy supply alert

MOTION: Senator Cobb moved to adopt as a committee bill. **VOTE:** Motion passed. Senator Cobb will be the sponsor.

LJIC Recommended legislation to adjust the entitlement share payments related to the Office of Public Defender for the six audited counties

Pat Gervais, Fiscal Analyst, LFD presented a memo explaining LC0359, a summary of the options for the entitlement share adjustment considered by LJIC subcommittee, and a copy of LC0359. (Exhibits 20, 20A, and 20B) Ms. Gervais explained that these documents are presented to the LFC at the recommendation of the LJIC for review. SB 146 provided that an audit of

public defender costs be completed in the six largest counties and a bill draft be forwarded to the 2007 Legislature by the Law and Justice Interim Committee (LJIC) to amend the entitlement share adjustment made for these six counties. The LJIC has completed its interim work and will not be meeting again, thus there is not an opportunity for the LFC to provide formal input. However, should the LFC wish, comments regarding the bill draft could be sent to members of the LJIC.

11. Performance Standards/Conceptual HB 2 Companion Bill (Tape 4B-654)

Taryn Purdy, LFD provided a memo on Performance Management Projects/Companion Bill. (Exhibit 21) Ms. Purdy briefly discussed the concept of a HB 2 companion bill and explained that if the legislature goes forward and/or expands on performance measurements for areas of state government, it will need additional budget tools that the concept of companion bills could at least partially address when needed.

Greg Petesch, LSD explained that the legislative rules allows for committee bills to implement the general appropriations act. Last session many of his concerns and recommendations were disregarded and the Governor item vetoed a number of provisions in HB 2. In some instances, there was no tie between the requirement for report and the appropriation itself. In other instances, the requirements for report were either in conflict with or not addressed in statute and could not be tied to an item of appropriation.

Conceptual “HB 2 Companion Bill”

Alan Peura, LFD presented a letter to the LFC from Senator Mangan, Chairman of the Education and Local Government (ELG) Committee (Exhibit 22), and two documents from the PEPB subcommittee. (Exhibit 22A) Mr. Peura explained that the ELG discussed the concept of having a “companion bill” to HB 2 that would contain matters of substantive law that are related to the budget but are not specific budget appropriations. It is the intent of Senator Mangan’s letter to provide the LFC with a sense of the perspective of the ELG about the concept of a HB 2 companion bill, in particular the use of such a companion bill to make operational the accountability measures that the PEPB developed during their interim work on university system budgeting.

Performance Management Budget Tools Development: Update

Barbara Smith and Kris Wilkinson, LFD presented a report on Performance Management Available Tools Update. (Exhibit 23) Ms. Smith explained that the purpose of this report is to provide the LFC with an overview of the tools available to the legislature to assess agency performance outcomes. During the interim LFD staff finalized several performance management tools including a new evaluation process, a standardized template for agency informational presentations to appropriations subcommittees, a guide to “Getting to Perform”, and updated agency profiles and completed agency accountability measures within the Montana University Systems. Options for the LFC to consider are:

- Determine the who, what, and when relating to legislator training and the use of the performance management tools
- Determine the need for a companion bill to HB 2 in relation to performance management requirements.

Included in tab 11 is a letter from David Ewer, OBPP stating that the template would impose a significant time and resource burden on agency staff and that the template model will be treated as advisory rather than obligatory. (Exhibit 24)

Also under tab 11 is a memo from Kris Wilkinson regarding the Governor’s Office and State Auditor’s Office Goals and Objectives. (Exhibit 25) Ms. Wilkinson explained that the Governor’s Office did not have readily identifiable objectives and did not include implementation status of their objectives. Also, the State Auditor’s Office does not have specific, measurable, or time-bound objectives. The LFC may wish to consider amending statutory to:

- Include goals and objectives as part of the executive budget which is printed for legislative consideration
- Require OBPP to develop policies and procedures for state agencies regarding requirements for goals and measurable objectives

Senator Laible suggested two different levels of training, one for all legislators and one for members of Appropriations and Senate Finance and Claims. He also requested a draft of the statute change to include goals and objectives for review at the November meeting.

The LFC committee agreed training be scheduled on the first day of session followed by the 2-day presentation. LFD staff will prepare subcommittee agendas for review at the November meeting.

Chairman Cobb requested that agency goals and objectives be included in the LFD budget analysis with an assessment by staff of measurability.

Mr. Schenck commented that the LFC, prior to each session can provide guidance and/or recommendations to the Appropriations and Senate Finance and Claims committees on procedures and global issues. LFD staff will provide a report with options in regard to how the subcommittees are conducted for review at the November meeting.

Senator Williams cautioned against eliminating the bulk of information about what agencies do.

FRIDAY, OCTOBER 13, 2006

ROLL CALL

Sen. Rick Laible
Sen. Mike Cooney
Sen. Carol Williams
Sen. Don Ryan
Sen. John Cobb
Rep. Gary Branae
Rep. Rosalie Buzzas
Rep. Ray Hawk
Rep. Tim Callahan
Rep. John Sinrud
Clayton Schenck, Legislative Fiscal Analyst
Diane McDuffie, Committee Secretary

ABSENT

Rep. Rick Ripley

Call to Order (Tape 5B-145)

The 198th meeting of the Legislative Finance Committee (LFC) reconvened on Friday, October 13, 2006, and was called to order at 8:00 a.m. by **Senator Cobb**, Chair, in Hearing Room 102 of the State Capitol, Helena, Montana.

12. Reliance on Federal Funds: Issues/Impacts (Tape 5B-150)

Taryn Purdy, LFD presented a report on Reliance on Federal Funds: Issues/Impacts. (Exhibit 26)
The purpose of this report is to continue work on the HJR 26 study passed by the 2005

Legislature and approved by the LFC. Ms. Purdy explained that this report focuses on potential strategies for dealing with the inconsistencies and lack of predictability of federal funds. Staff determined that a way to aid the legislature in the long-term was to construct a federal funds database to provide information on the largest and consequently the most critical funding sources if fund levels or requirements change, and an outlook and recent history to allow the legislature to proactively deal with changes when possible.

The federal funds database created by LFD staff is a summary of the largest funding sources. The information in the database could be used as the starting point for answering a number of questions before making decisions on new or expanded services, and to gauge the risk to the state of reductions. The legislature could use this database as the foundation for determining which federal funding sources are most at risk, and make funding decisions based upon this level of risk, including either strategies for loss of services or contingent replacement of funds. The database, which will be updated every two years, can be used alone or in combination with other information to proactively address changes in the availability of federal funding.

Chairman Cobb requested the federal funds database be put on the Web for public access.

13. Report on Alternatives to Using Vacancy Savings Concept to Fund Personal Services

(Tape 6A-150)

Chairman Cobb explained that he asked Jon Moe to provide an example of an alternative to using vacancy savings to fund personal services. Mr. Moe, LFD presented two spreadsheets on Personal Services Budgeting Models. (Exhibit 27) He explained that the spreadsheets are an example of two different programs with 9 FTE. Each sample shows the current process “snapshot” and vacancy savings and an example of an alternative process. The alternative process includes adjustments to annualize the pay plan, fund market adjustments to the pay plan, fund longevity changes, annualize authorized new positions for which hiring was delayed, and restore funding not in the base.

14. Fire Suppression Funding Options (Tape 6A-512)

Barbara Smith, LFD presented a report on Fire Suppression Funding Options (Exhibit 28) and an updated table on the Average Cost of Fire Suppression. (Exhibit 28A) The purpose of this report

is to provide information regarding the factors driving costs in wildland fire suppression and options to establish appropriation authority for wildland fire suppression. Since suppression costs are not provided upfront funding through an appropriation by the legislature, DNRC does not have additional authority specifically provide to pay these costs. To address the complexities of funding wildland fire suppression, the LFC may wish to:

- Request legislation to establish a statutory appropriation
- Request that the Natural Resources and Commerce Appropriations Subcommittee add a line item appropriation in HB 2 during the 2007 session
- Request legislation to increase the Governor's emergency fund
- Request legislation to create wildland fire revolving fund

Mary Sexton, Director, DNRC suggested a statutory appropriation or line item and also increase the Governor's emergency fund.

Senator Bales said that he has requested a bill draft to create a revolving fund that would be used for fire suppression. The account would start at \$30 million and reimbursements from the federal government would go back into the account.

MOTION: Senator Cooney moved to request a bill draft to establish a statutory appropriation for wildland fire suppression. **VOTE:** Motion passed.

15. Recap of Executive Action on FY 2006 Appropriations Transfer Requests (Tape 6B-559) Taryn Purdy, LFD presented a report on Executive action on FY 2006 Appropriations Transfers from FY 2007. (Exhibit 29) Ms. Purdy explained that at the June meeting, the LFC reported to the Governor's Office on three proposed supplemental appropriations. The purpose of this report is to provide an update on what agencies requested in their supplementals and what actually transferred in those supplementals.

Lois Steinbeck, Fiscal Analyst, LFD presented a report on FY 2006 Appropriation Transfer – Department of Public Health and Human Services and Other Issues (Exhibit 30) and provided speaking notes. (Exhibit 30) Ms. Steinbeck explained that at the June meeting, the LFC asked that:

- DPHHS use state special revenue authority as required by law to offset general fund costs
- DPHHS report to the LFC by July 15 on the appropriation transfer amount

- Staff prepare options to amend statute and prevent the health and Medicaid initiatives account from being depleted beyond legislative expectations

This report responds to those requests and:

- Raises an issue for LFC consideration – DPHHS could increase general fund reversions by \$1 million in FY 2006 by using a biennial appropriation for Big Sky Rx start up costs to reimburse general fund costs for Medicaid provider rate increases
- Provides information on the potential FY 2007 cost overrun as well as the DPHHS plan to potentially use biennial general fund appropriations to help reduce the FY 2007 cost overrun.

MOTION: Senator Cobb moved to request DPHHS use the \$1.0 million biennial appropriation for Big Sky Rx to offset FY 2006 general fund Medicaid provider rate increases and request a committee bill to amend 53-6-1201(4)(a) to prohibit draw down of the health and Medicaid initiatives account beyond legislative appropriation levels included in the general appropriations act. **VOTE:** Motion passed.

Senator Cooney provided a written response from Art Compton, DEQ regarding the Gallatin River Outstanding Resource Water issue. (Exhibit 31) **Senator Cooney** explained that in response to Rep. Sinrud's question yesterday, Dr. Paul Polzin stated that there had been no study of the economic effect of designating the Gallatin River as an Outstanding Resource Water. That is incorrect; the draft EIS analysis, now out for public comment, includes a vigorous economic analysis, which concludes that there is not a significant adverse economic effect on the buildout of the Gallatin corridor.

Art Compton, DEQ stated that Dr. Polzin was asked if he was aware of any economic analysis on adverse effects of ORW designation of the Gallatin and he replied in the negative. For the committee's information, the draft EIS analysis did an extensive economic analysis of any socioeconomic effects ORW designation. There would be no adverse effect, in fact there would be a mild socioeconomic benefit.

Senator Cooney said that after discussions with the subcommittee, it was determined that the subcommittee would not move forward with the other two proposals. There are a number of issues raised that could not be addressed at this time. The subcommittee agreed it would not be prudent to move forward with LC0185 and LC0186.

16. Review of Select New Proposals Approved by the 2005 Legislature (Tape 7A-204)

Taryn Purdy, LFD presented a report on the Review of Select Approved New Proposals for the 2007 Biennium. (Exhibit 32) This report is in response to a request by the committee to provide an update on some of the initiatives that were added by the legislature. The information in the table provides the following, by subcommittee and agency; 1) initiative, 2) intent; 3) FTE; and 4) results.

21. Other Reports (Tape 7A-307)

Taryn Purdy, LFD presented the Operating Plan Changes and Program Transfers (Exhibit 33) and the Operating Plan Changes of a Time Sensitive Nature. (Exhibit 34) Ms. Purdy explained that the Office of Budget and Program Planning (OBPP) have 3 operating plan changes and 1 program transfer that meet statutory criteria. LFD staff has reviewed these and raise no concerns. Also, the OBPP approved as time sensitive 8 operating plan changes and 5 program transfers. (Exhibit 35) Staff has reviewed these and raises no concerns.

Greg DeWitt, Senior Fiscal Analyst for the LFD presented the Budget Amendments. (Exhibit 36) He informed the committee staff raised concerns with two amendments. Both amendments are to distribute Bentonite taxes to counties, which are addressed in the memo regarding Budget Amendment for SB 276 Tax Distributions. (Exhibit 37) SB 276, as passed and approved, did not include an appropriation or amend state law to add a corresponding statutory appropriation for the distribution of tax proceeds. At the October 2005 meeting the committee voted to write a letter to the Governor informing him that the amendment did not meet the statutory criteria for a budget amendment. The Governor has requested legislation for the 2007 Legislature and the Legislative Council has requested drafting of legislation to establish a statutory appropriation for the bentonite tax distribution.

Due to the fact the LFC previously sent a letter to the Governor informing him that the amendment did not meet statutory criteria, the committee chose not to take any action on this issue.

Required Reports

This report (Exhibit 38) was included in the LFC notebook but was not formally presented.

22. Committee Business (Exhibit 39)

Clayton Schenck, LFA explained that the management advisory workgroup requested a proposal to deal with the large termination payments that will need to be made. He presented the Legislative Branch Retirement Planning document which shows the number of employees eligible to retire within 5 years by division. Termination pay liability as of October, 2006 for the total branch is \$729,650 and an estimated liability at the end of session of \$1,424,047. The recommended reserve for the 2009 biennium is \$400,000. Proposed options to fund the liability are:

- Establish a reserve fund to be used only for termination payments
- Request a bill draft that would establish a reserve fund to set aside funds to be used only for termination payments
- Authorize staff divisions to request a line item, restricted appropriation to the legislative branch divisions
- Divisions will have to fund termination pay from existing appropriations or request a supplemental appropriation

Senator Williams recommended moving forward with a proposal for the branch. In addition, all agency retirements need to be addressed in the next session.

Senator Ryan asked that the Directors look at the impact of term limits on staff. Term limits has doubled staff workload, which drives up the comp time and maybe we don't have the staff we need to operate efficiently.

MOTION: Senator Cooney moved to approve authority for a committee bill to establish a funding source for retirement pay-outs as needed for implementation of proposal. **VOTE:** Motion passed.

Dan Bucks, Director, Department of Revenue provided a chart on each of two decision packages approved by the 2005 Legislature. (Exhibit 40 & 40A) Compliance Package DP111 was for 8 positions to explore areas of compliance that had not been addressed by the Department in the past. As of the end of September, the Department passed their biennial goal of \$3.4 million. The department also replaced a contract with an out of state collection firm with other staff. The

Department met their goal in December 05. The biggest challenge is continuing turnover with these positions and preexisting compliance staff.

17. Report on the Montana State Fund 2007 Budget Analysis (Tape 7B-155)

Kris Wilkinson, LFD introduced Mark Barry, Vice President, Corporate Support for the Montana State Fund.

Mr. Barry provided a handout on the Montana State Fund. (Exhibit 41) Mr. Barry's presentation included discussion on rate comparison, policy and premium distribution, MSF annual budget, incentive plan, FY 2006 old fund balance, and impacts of court decisions. In conclusion, the MSF budget for 2007 is increasing by \$26.0 million. Ninety percent of that increase is related to what MSF is estimating they will spend in benefits to injured employees. An estimate of commissions is up \$1.7 million related to business volume and, personal services and all other are up 3 percent from 2006. There has been additional deterioration of about \$5.0 million in the old fund primarily relative to medical trends on remaining claims. The invested assets stand at about \$52.0 million based on calculations on the payout patterns, estimated to last until 2013. Costs not included in the FY 07 budget include merit and management incentives plan adjustments for the President, court decisions, and employee incentive program payments.

He reported the estimated cost of the Stavenjord case is between \$14.0 and \$19.0 million new fund and \$5.0 to \$7.0 million old fund. Estimated cost of the Schmill case is \$1.4 to \$1.9 million new fund and \$800,000 old fund. Estimated cost of the Reesor case is \$2.0 million new fund and \$1.0 million old fund. Estimated cost of the Satterlee case is \$135.0 to \$186.0 million new fund and \$93.0 to \$116.0 old fund. Mr. Barry responded to questions from committee members.

Chairman Cobb requested Montana State Fund address in writing the issues raised by Kris Wilkinson, LFD in her report dated October 9, 2006. (Exhibit 42)

Committee Business (Continued) (Tape 8A-218)

Clayton Schenck, LFA presented the LFD Budget request for approval. He explained that the proposed 2009 biennium budget present law request is 9.4 percent higher than the 2007 biennium appropriation due entirely to personal services cost increases.

MOTION: Senator Cooney moved to approve the Legislative Fiscal Division budget. **VOTE:** Motion passed.

18. Information Technology Oversight (Tape 8A-282)

Greg DeWitt, LFD explained under tab 18 of the committee notebook is a CIO Report, (Exhibit 43) major initiatives, (Exhibit 43A) Information Technology Services Division Cost Recovery Information System (Exhibit 43B) Information Technology Policies and Standards report (Exhibit 44) and a Sample performance measures for the statewide information technology plan. (Exhibit 44A)

Jeff Brandt, Deputy CIO, Department of Administration presented the CIO Report and Major IT Project Portfolio. Mr. Brandt stated there are no MITA compliance issues to report. ITSD received 12 requests for exceptions since the last meeting, all relatively minor. Currently ITSD has seven active projects in good (green) status; Justice – Merlin is in caution status (yellow) due to funding. Funding is being managed by splitting off non-essential requirements into a separate SOW that will only be implemented as funding becomes available. There are no projects in challenged (red) status.

Mr. Brandt presented an update on the major IT initiatives for the 2009 biennium budget with associated costs. It has not been determined yet which items will move forward in the EPP process. He also briefly discussed the Information Technology Services Division Cost Recovery Information System. Mr. Brandt responded to questions from committee members.

Senator Cooney asked Mr. Brandt to provide details of what services are being provided, what services are being used the most, and to prioritize the delivery of those services for the November meeting.

No fiscal concerns were raised with any of the policies and standards by the committee.

20. “Bulldog” Reports (Tape 8B-197)

CHIPS Enrollment Status: Follow-up

Senator Williams presented an updated on CHIP Enrollment and Other Issues. (Exhibit 45) The LFC has been tracking enrollment in the Children's Health Insurance Program (CHIP) since last September. Current CHIP enrollment is 13,184, about 20 children more than the September level. CHIP reauthorization is being considered by Congress. The ability to expand and sustain CHIP enrollments in excess of 13,900 will depend on the amount that Congress appropriates and the distribution among states.

Senator Cooney noted that with the change in Medicaid eligibility for children, there have been some children currently on CHIP become eligible for Medicaid, so they have moved from CHIP to Medicaid.

Montana State Hospital" Follow-up

Senator Laible presented an updated on Montana State Hospital. (Exhibit 46) The LFC has tracked MSH population and expenditures levels due to the higher than budgeted population levels. While it is difficult to determine the direct cause of MSH population fluctuations, Department of Public Health and Human Services (DPHHS) made some management changes that could attribute to the ADP reductions. DPHHS submitted a HCBS waiver for federal review September 18. If approved, the waiver would allow DPHHS to provide community services to persons with a serious and disabling mental illness who are Medicaid eligible and meet nursing home level of care. Implementation of the HCBS waiver could help lower or stabilize the MSH population.

Representative Buzzas noted that the appropriation to continue the HCBS waiver is not in the executive budget. The MSH "Bulldog" committee request that the Department report on this at the November meeting.

DDP: Follow-up re: rate reimbursement

Marilyn Daumiller, Fiscal Analyst, LFD presented a report on Overtime costs and reduction of the population at the Montana Developmental Center in Boulder. (Exhibit 47) The LFC has been monitoring the issue of overtime at the Montana Development Center (MDC) in Boulder with regard to the supplemental request last October. Ms. Daumiller reported that the amount of the supplemental is still at \$800,000 in personal services. Tangential to the overtime issue are concerns related to reducing the population of MDC, removing 15 individuals from the waiting list, the implementation of provider rates, and the construction a new building approved by the 2005 Legislature.

The department has moved 26 individuals into the community and will move all individuals from MDC's Unit 16 AB into the community by December 2006, and close the unit. Additionally, 15 individuals will be moved off the waiting list, if a place can be found in the community, by December 2006. With regard to provider rates, Regions I and III will now enter the Provider Rate Project using the rates tested and validated by Region II in the project pilot phase. Following the same process as the Adult Provider Rate Project, the initial Child Provider Rates have been established for children. In regards to the new building at MDC, the Request for Proposal for the construction bid will be out this fall. The department expects to begin construction by the spring of 2007.

Corrections Long Range Budget Solutions

Representative Callahan reported on the Corrections Long-Term Solutions. (Exhibit 48) The group reviewed the recommendations made by the Corrections Advisory Council Study Committee to the full advisory committee and the work completed to date by the full Corrections Advisory Council. The "bulldog" group determined that they would not recommend specific actions to the LFC at this time. The "bulldog" group requested staff provide additional information and the "bulldog" committee will provide an update at the November meeting.

Office of the Public Defender Cost Over-runs

Pat Gervais, LFD reported that the Public Defenders Office provided a great deal of information to Representative Sinrud. Based on the information received and reviewed, staff found:

- It is likely there will be additional office equipment and computers to be purchased beyond FY 2007

- Most of the cost estimates in their strategic plan are built on broad based data
- Estimated cost for the case management system is based upon the fiscal note to the bill with some inflation added.

Areas of concern regarding the contracting policy is that the policy does not appear to define the criteria used to determine what counsel is qualified to become part of the pool, the criteria to be used by the regional public defenders in determining assignment of cases doesn't appear to be defined, and the policy does not provide for negotiation of rates or costs. It is difficult to determine whether or not the contracting policy meets the legislative expectations of a competitive contracting policy.

Harry Freebourn, Administrative Director, Office of the State Public Defender responded that Pat Gervais has communicated her concerns to him and he briefly discussed them at the Commission meeting.

19. Early Intervention and Prevention: A work in Progress (Tape 9A-078)

Lois Steinbeck, Fiscal Analyst, LFD presented a report on Early Intervention and Prevention: A Work in Progress. (Exhibit 49) Ms. Steinbeck reported that in June 2006, the National Conference of State Legislatures in conjunction with three other national organizations hosted a seminar titled "Using Limited Health Dollars Wisely – What State Can Do to Create the Health System They Want". This report and the options provided came from a Montana team sent to the seminar. The Montana team adopted a goal to promote prevention with an emphasis on early intervention and access to prenatal care. Since the June meeting, executive and legislative staff have continued to meet, develop Montana specific data, and identify options for legislative consideration. The list of options identified to date concentrate on either expanding or augmenting current Montana programs for at risk pregnant women and young children. Preliminary cost estimates have not been developed.

In response to a question from **Senator Williams** regarding CMS money follows the person program, Jeff Strum said the department has been looking at whether the grant would be beneficial but a decision has not been made whether or not to apply.

Senator Ryan asked how you determine whether the program is successful or not with the prenatal intervention.

Joann Dotson, State Health Department said they measure low birth weight rates, whether or not the families are tied into programming, subsequent births, and improved pregnancy outcomes of the pregnancy outcome.

Ms. Steinbeck said she would include outcome data in the next report.

HIFIA Waiver Update

This report (Exhibit 50) was also include in the notebooks but was not formally presented.

Committee Business (Continued) (Tape 9B-)

Clayton Schenck presented the remaining items under committee business.

Mr. Schenck discussed the LFD Work Plan, LFD Cost Report, and LFD Compensatory Time Balances. He advised that compensatory time is down 30 percent from the start of last session. There are two employees over the 120 hours.

Next LFC Meeting

The next meeting of the LFC will be held on November 28, 2006.

Adjournment

Meeting adjourned at 3:15 p.m.

Senator Cobb, Chairman

Diane McDuffie, Committee Secretary